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28 DECLARATION OF MICHELE F. RAPHAEL IN OPPOSITION TO DEFENDANT
GOOGLE INC.'S ADMINISTRATIVE MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL

1 I, MICHELE F. RAPHAEL, declare as follow:

2 1. I am a member of Wolf Popper LLP, counsel for Plaintiffs CLRB Hanson
3 Industries, LLC d/b/a Industrial Printing and Howard Stern (collectively, "Plaintiffs") in this
4 action against Google, Inc ("Google"). I have personal knowledge of the facts stated herein. I
5 submit this declaration in opposition to Defendant Google Inc.'s administrative motion pursuant
6 to Civil Local Rules 7-11 and 79-5 to file under seal, Google Inc.'s Supplemental Brief in
7 Support of Summary Judgment Motion and Supplemental Declaration of M. Christopher Jhang
8 in support of Google Inc.'s Supplemental Brief in Support of Summary Judgment Motion
9 (including Exhibits A-D) (collectively, "Defendant's Supplemental Filings").

10 2. Defendant seeks to file Defendant's Supplemental Filings wholly under seal
11 largely because they have designated the entire deposition transcripts of Mssrs. Schulman and
12 Venkataraman as confidential. A copy of Defendant's designation letter is annexed hereto as
13 Exhibit A.

14 3. Plaintiffs object to Defendant's blanket designation of the transcripts of Mssrs.
15 Schulman and Venkataraman as improper and contrary to the [Proposed] Stipulated Protective
16 Order Regarding Confidential Information, filed with the Court on March 2, 2007 (the "Parties
17 [Proposed] Stipulated Protective Order"). Paragraph 4 thereof explicitly prohibits blanket, en
18 masse designations without regard to the specific contents of each document or piece of
19 information.

20 4. Illustrative of the impropriety of Defendant's blanket confidential designation is
21 testimony addressing Mr. Schulman's preparation for his deposition, his understanding that he
22 has to respond orally at his deposition; whether he read anyone else's deposition transcript;
23 whether he was asked to provide documents with respect to the case; whether he searched his
24 files for documents; his education background; his title and physical location at Google; and
25 questions concerning his Declaration which Defendant chose to submit and publicly file with the
26 Court, as well as the discussions concerning Mr. Stern's declaration which was also publicly
27 filed with the Court.

28 **DECLARATION OF MICHELE F. RAPHAEL IN OPPOSITION TO DEFENDANT
GOOGLE INC.'S ADMINISTRATIVE MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL**

1 5. Defendant has similarly and improperly designated confidential testimony
 2 concerning Mr. Venkataraman's preparation for his deposition; his educational background; his
 3 employment history; the location of his office at Google; the number of floors in the Google
 4 building; whether he knows what a billing period is; and whether he has taught classes at a
 5 university. This too, is illustrative, and not an exhaustive reiteration of the testimony that has
 6 been improperly designated confidential.

7 6. A copy of Plaintiff's counsel's letter objecting to Defendant's confidential
 8 designations is annexed hereto as Exhibit B.

9 7. In addition to the foregoing, Google's witnesses repeatedly testified that the
 10 AdWords program is a "dynamic" and "evolving" system so that information that may have
 11 qualified as confidential in the past (which Plaintiffs do not submit), may no longer, in good
 12 faith, be designated confidential in 2007.

13 8. Defendant has not demonstrated good cause to justify the filing of the
 14 aforementioned documents under seal. Little, if any, information qualifies as confidential
 15 material as per the Parties [Proposed] Stipulated Protective Order.

16 9. Due to Defendant's confidential designations, Plaintiffs were required to file
 17 under seal, portions of Plaintiffs' Supplemental Memorandum in Support of Plaintiffs' Motion
 18 for Partial Summary Judgment and portions of the Supplemental Declaration of Michele F.
 19 Raphael dated May 3, 2007 (collectively, "Plaintiffs' Supplemental Filings") as required by the
 20 Parties' [Proposed] Stipulated Protective Order.

21 10. Defendant should make a good faith effort to designate as confidential and/or
 22 confidential-trade secret/attorney's eyes only those portions of the deposition testimony and other
 23 evidence which qualifies as such pursuant to the Parties' [Proposed] Stipulated Protective and
 24 Fed. R. Civ. Pro. 26 (c). Then, if, and to the extent, Defendant continues to maintain that it is
 25 necessary to file under seal any portion of, Defendant's Supplemental Filings (or Plaintiffs'
 26 Supplemental Filings), such request should be narrowly tailored to protect from the public
 27 record, only those portions which constitute trade secrets, proprietary information, and/or

28 **DECLARATION OF MICHELE F. RAPHAEL IN OPPOSITION TO DEFENDANT
 GOOGLE INC.'S ADMINISTRATIVE MOTION FOR LEAVE TO FILE DOCUMENTS UNDER SEAL**

1 confidential information, which, if not sealed and permitted in the public record, would prejudice
2 Google or cause Google to suffer irreparable harm.

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4 Dated: May 10, 2007

5 _____/s/
6 Michele F. Raphael
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